

REMARKS

Applicants appreciate the Office's review of the present application. In response to the Office Action, the cited references have been reviewed, and the rejections and objections made to the claims by the Examiner have been considered.

In order to place the application in condition for allowance, or alternately in better condition for appeal, claims 2, 20, 36-37, 44, and 46-47 have been amended, and claims 1, 3, 10-13, 15, 23-26, 28-29, 35, 38-43, 45, and 48-49 have been cancelled without prejudice. Claims 2, 4-5, 8-9, 20, 22, 30, 36-37, 44, and 46-47 remain pending. Support for any claim amendments is found in the specification, claims, and drawings as originally filed, and no new matter has been added. This Amendment is submitted in order to further prosecution and permit the issuance of a patent on the allowable subject matter, and should not be construed as acquiescence by Applicants in the outstanding rejection. Applicants believe that the amendment to the abovementioned claims does not require a further substantive examination and does not present new matter, and therefore request entry of this amendment. Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Rejections

Rejection Under 35USC §112 Second Paragraph

Claims 2, 4-5, 8-9, 20, 22, and 36-37 have been rejected under 35 USC §112, paragraph 2, as being indefinite for failing to particularly point and distinctly claim the subject matter which the Applicant regards as the invention. In response, independent claim 20 has been amended, consistent with the Office's interpretation and the statement of reasons for the indication of allowable subject matter, to recite a threshold size for identifying qualified image files.

In view of the foregoing, it is submitted that the rejection of these claims under

35 USC §112, paragraph 2, has been overcome and that they are in condition for immediate allowance.

Rejection Under 35USC §103

Claims 2, 4-5, 8-9, 36-37, and 46 have been rejected under 35 USC §103(a), as being unpatentable over U.S. patent application publication 2003/0123079 to Yamaguchi et al. ("Yamaguchi") in view of U.S. patent application publication 2002/0087577 to Manjunath et al. ("Manjunath"). Claims 2, 4-5, 8-9, and 36-37 have been amended to depend directly or indirectly from allowable claim 20. Claim 46 has been amended to depend from allowable claim 44. Applicants respectfully request reconsideration, and believe that the rejection of these claims has been overcome and that they are in condition for immediate allowance.

Claim 47 has been rejected under 35 USC §103(a), as being unpatentable over U.S. patent application publication 2003/0123079 to Yamaguchi et al. ("Yamaguchi") in view of U.S. patent application publication 2002/0087577 to Manjunath et al. ("Manjunath"), and further in view of U.S. patent 6,141,111 to Kato ("Kato"). Claim 47 has been amended to depend from allowable claim 44. Applicants respectfully request reconsideration, and believe that the rejection of this claim has been overcome and that it is in condition for immediate allowance.

Formalities

Allowable Subject Matter

Applicants acknowledge, with appreciation, the allowance of claim 30.

Claims 20 and 22 have been indicated as allowable if rewritten to overcome the rejections under 35 USC §112, paragraph 2, and to include all of the limitations of the base claim and any intervening claims. As discussed heretofore, Applicants have rewritten independent claim 20 to overcome the rejection under 35 USC §112, paragraph 2. Applicants, therefore, respectfully

request that the objections to claims 20 and 22 be withdrawn and that these claims be allowed.

Claim 44 has been objected to as being dependent upon a rejected base claim and has been indicated as being allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. With this Amendment, Applicants have rewritten claim 44 in independent form to include all of the limitations of the base claim (claim 42) and any intervening claims (none). Applicants, therefore, respectfully request that the objection to claim 44 be withdrawn and that this claim be allowed.

Comments on Statement of Reasons for Allowance

Applicants agree with the Office's conclusion regarding patentability, without necessarily agreeing with or acquiescing in the reasons set forth in the Office Action. In particular, applicants wish to emphasize that the patentability of claims stems from the respective combinations of elements defined by the claims, each viewed as a whole, rather than the presence of any particular element(s) in the combinations. Applicants submit that the indicated claims are allowable because the prior art fails to anticipate, teach, suggest, or render obvious the invention as claimed, independent of how the invention is paraphrased. Applicants thus rely on the claims, as drafted, rather than any characterization in the Office Action.

Conclusion

Attorney for Applicants has reviewed each one of the cited references made of record and not relied upon, and believes that the claims presently on file in the subject application patentably distinguish thereover, either taken alone or in combination with one another.

Therefore, all claims presently on file in the subject application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication with Applicant's attorney would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned Robert C. Sismilich, Esq. at the

below-listed telephone number.

**AUTHORIZATION TO PAY AND PETITION
FOR THE ACCEPTANCE OF ANY NECESSARY FEES**

If any charges or fees must be paid in connection with the foregoing communication (including but not limited to the payment of an extension fee or issue fees), or if any overpayment is to be refunded in connection with the above-identified application, any such charges or fees, or any such overpayment, may be respectively paid out of, or into, the Deposit Account No. 08-2025 of Hewlett-Packard Company. If any such payment also requires Petition or Extension Request, please construe this authorization to pay as the necessary Petition or Request which is required to accompany the payment.

Respectfully submitted,



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